

Legislative History for Connecticut Act

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<b>Act Number:</b>	14 (special act)	2005
<b>Bill Number:</b>	1331	
<b>Senate Pages:</b>	Senate: 4268-4274, 4276-4277	9
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<b>Committee:</b>	Finance: 525-531, 571-598, 636-639, 696-697, 706-712, 794-817	37

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CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
2005

VOL. 48  
PART 14  
4228-4563

jlm  
Senate

004268  
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SENATE ASSEMBLY:

Aye.

THE CHAIR:

Those opposed, "nay"? The ayes have it. Will you remark further on the bill as amended? Senator Murphy.

SEN. MURPHY:

Thank you. Having seen that amendment pass, if there's no objection, I'd move this item to the Consent Calendar.

THE CHAIR:

Hearing no objection, so ordered. Mr. Clerk.

THE CLERK:

Calendar Page 17, Calendar 464, File 638, Substitute for S.B. 1331, An Act Concerning a Study of the Organization and Operation of Special Taxing Districts, Favorable Report of the Committee on Finance, Revenue and Bonding and Planning and Development.

THE CHAIR:

Senator Looney.

SEN. LOONEY:

Yes, Mr. President, I'd yield to Senator

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McDonald.

THE CHAIR:

Senator McDonald.

SEN. MCDONALD:

Thank you, Mr. President. Mr. President, I need to absent myself under Rule 15.

THE CHAIR:

So noted. Senator Daily.

SEN. DAILY:

Thank you very much, Mr. President. I move the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

On acceptance and passage, Senator Daily.

SEN. DAILY:

Thank you very much, Mr. President. There's an amendment on the bill, LCO 7595, and I would ask the Clerk to be kind enough to call this.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 7595, which will be designated as Senate Amendment Schedule "A". It is offered by Senator

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Daily of the 33<sup>rd</sup> District.

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you very much. I move passage of the amendment.

THE CHAIR:

On adoption, will you remark? Senator Daily.

SEN. DAILY:

Thank you very much. Any special taxing district in any of our municipalities requires that it be set up by the Legislature. And this is a special taxing district in the town of Redding, County of Fairfield, State of Connecticut. And it aims to remediate polluted property and create a mixed-use subdivision.

THE CHAIR:

On the amendment, will you remark further?

Senator Nickerson:

SEN. NICKERSON:

Yes, thank you, Mr. President. In general, my thought is that a use of a tax district to issue bonds is a new and somewhat experimental concept and should be approached with great caution.

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However, I have had a chance to examine this amendment and look into its background. And I'm convinced that, in this particular case, drawn narrowly as it is for a particular development, which, as to which there's been a great deal of work, background, and local support, that such a tax district authorizing the issuance of bonds is appropriate. So I would urge adoption.

THE CHAIR:

Will you remark further on the amendment?

Senator Freedman.

SEN. FREEDMAN:

Thank you, Mr. President. For legislative intent, I would like to ask Senator Daily a question.

THE CHAIR:

Please proceed, Senator.

SEN. FREEDMAN:

Once the bonds have been let and if something unforeseen happens and the bonds default, will the Town or the State of Connecticut be in any way responsible for those bonds, through you, Mr. President?

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Senator Daily.

SEN. DAILY:

Thank you very much, Mr. President. And, Senator Freedman, I really appreciate the question and the opportunity to respond. It's important that people do know that neither the municipality nor the State of Connecticut would ever be held liable for these bonds. These are private bonds.

THE CHAIR:

Senator Freedman.

SEN. FREEDMAN:

Yes. And thank you, Mr. President. I appreciate Senator Daily's comments. I do believe that it is a very narrowly, carefully drafted amendment, and I would urge my colleagues to please support it. Thank you.

THE CHAIR:

Will you remark further on the amendment?

Senator Finch.

SEN. FINCH:

Thank you, Mr. President. We've done a lot of really interesting things this session, but I think that when we look back on the special taxing

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districts in the case of Redding and perhaps in other cities before this session is over, we will find that we helped the market to create new funds of capital for development in our state, which will be critical.

With Groton Sub Base in jeopardy and other large parcels of property needing to be developed, the State of Connecticut simply could not fund all of these projects with general obligation bonds or, in many cases, with other forms of TIF financing.

This is, the Finance Committee and their leaders, Senator Daily and Representative Staples, should be highly commended for the creativity of this legislation. And I stand here to do whatever I can to vote for this bill and to help it become law. Thank you, Mr. President.

THE CHAIR:

Will you remark further on the amendment?

Senator Cook.

SEN. COOK:

Thank you very much, Mr. President. The Groton Sub Base is not going to be redeveloped. It's going to stay a sub base.

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Thank you, Senator Cook. Will you remark further on the amendment? If not, we'll try your minds. All those in favor, please say "aye".

SENATE ASSEMBLY:

Aye.

THE CHAIR:

Those opposed, "nay"? The ayes have it. The amendment is adopted. Senator Daily.

SEN. DAILY:

Thank you very much, Mr. President. If there's no objection, I move this to the Consent Calendar.

THE CHAIR:

Hearing no objection, it is so ordered. Mr. Clerk.

THE CLERK:

Calendar Page 20, Calendar 574, File 259, H.B. 6726, An Act Concerning the Land Bank and Land Trust Program, Favorable Report of Committees on Commerce, Judiciary, and Planning and Development.

THE CHAIR:

Senator LeBeau.

SEN. LEBEAU:

Thank you, Mr. President. I move acceptance of

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THE CLERK:

Mr. President, that completes those items previously marked Go.

THE CHAIR:

Mr. Majority Leader.

SEN. LOONEY:

Yes, Mr. President, I believe that Calendar Page 17, Calendar 464, was placed on the Consent Calendar, SB1331 if I'm not mistaken. If that is true, we need to remove that since a Member had absented himself under Rule 15.

THE CHAIR:

That is correct, and I stand corrected and apologize for that oversight, Senator. So we will remove that from the Consent Calendar and the Clerk, at this, and you wish a vote at this time, Mr. Majority Leader?

SEN. LOONEY:

Yes, Mr. President.

THE CHAIR:

The Clerk will please announce the pendency of a roll call vote. The machine is open.

THE CLERK:

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An immediate roll call vote has been ordered in  
the Senate. Will all Senators please return to the  
Chamber.

An immediate roll call has been ordered in the  
Senate. Will all Senators please return to the  
Chamber.

THE CHAIR:

If all Members have voted, the machine is closed.  
The Clerk will announce the result.

THE CLERK:

Motion is on passage of S.B. 1331.  
Total number voting, 34; necessary for passage,  
18. Those voting "yea", 34; those voting "nay", 0.  
Those absent and not voting, 2.

THE CHAIR:

The bill is passed. Mr. Majority Leader.

SEN. LOONEY:

Thank you, Mr. President. If the Clerk might  
please call the Consent Calendar at this time.

THE CHAIR:

Mr. Clerk, would you read the items on the  
Consent Calendar.

THE CLERK:

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The Bill as amended is passed in concurrence with  
the Senate. The House will stand at ease.

(CHAMBER AT EASE)

DEPUTY SPEAKER GODFREY:

Will the Clerk please call Calendar Number 644.

CLERK:

On Page 16, Calendar Number 644, Substitute for  
Senate Bill Number 1331, AN ACT CONCERNING A STUDY OF  
THE ORGANIZATION AND OPERATION OF SPECIAL TAXING  
DISTRICTS, Favorable Report of the Committee on  
Planning and Development.

DEPUTY SPEAKER GODFREY:

Representative Leone.

REP. LEONE: (148<sup>th</sup>)

Thank you again, Mr. Speaker. I move acceptance  
of the Joint Committee's Favorable Report and passage  
of the Bill, in concurrence with the Senate.

DEPUTY SPEAKER GODFREY:

Will the Clerk please light up the board.  
Question is on acceptance and passage. Will you  
explain the Bill, please, Sir.

REP. LEONE: (148<sup>th</sup>)

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Thank you, Mr. Speaker. I also have a, the Clerk is in possession of an Amendment. It is LCO Number 7595. I ask that he please call and I be allowed to summarize.

DEPUTY SPEAKER GODFREY:

Clerk is in possession of LCO Number 7595, previously designated Senate Amendment Schedule "A". Will the Clerk please call.

CLERK:

LCO Number 7595, Senate Amendment Schedule "A",  
offered by Senator Daily.

DEPUTY SPEAKER GODFREY:

Is there objection to the gentleman's request to summarize? Hearing none, please proceed, Sir.

REP. LEONE: (148<sup>th</sup>)

Thank you, Mr. Speaker. This Bill is very similar to the one that we just spoke about. It is also a special taxing district, and this authorizes the creation of that such district in the Town of Redding, to clean up and redevelop contaminated property and provide municipal service.

This is a Brownfield remediation cleanup and it would be a benefit to the local community, also a

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potential positive fiscal impact. I urge support and adoption of the Amendment.

DEPUTY SPEAKER GODFREY:

The question is on adoption. Representative Bielawa.

REP. BIELAWA: (2<sup>nd</sup>)

Thank you, Mr. Speaker. I rise in support of the Bill. It's a win-win situation for all involved by cleaning up the environment, making use of the existing tax infrastructure for a case of smart growth, and it also provides for the first set of affordable housing for the Town of Redding. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, Sir. Representative Stripp.

REP. STRIPP: (135<sup>th</sup>)

Thank you, Mr. Speaker. Mr. Speaker, this particular site is a manufacturing site that has been manufacturing since the early 1800s, and it is actually a brown field right now.

And this project, as it moves forward, and this Bill and the Amendment will help it do so, it will

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turn into a village with over 300 houses and retail facilities included. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, Sir. Representative Widlitz.

REP. WIDLITZ: (98<sup>th</sup>)

Thank you, Mr. Speaker. A question to the proponent of the Amendment.

DEPUTY SPEAKER GODFREY:

Please frame your question.

REP. WIDLITZ: (98<sup>th</sup>)

Again, for the purposes of Legislative intent, is there anything in this special taxing district structure that changes anything for the current existing structure that's in statute?

DEPUTY SPEAKER GODFREY:

Representative Leone.

REP. LEONE: (148<sup>th</sup>)

Thank you, Mr. Speaker, and again a very relevant question. The answer is the same as the last, the answer is no. This is a special act and references solely Redding.

DEPUTY SPEAKER GODFREY:

Representative Widlitz.

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REP. WIDLITZ: (98<sup>th</sup>)

That is the correct answer. Thank you very much,  
Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Belden.

REP. BELDEN: (113<sup>th</sup>)

Thank you, Mr. Speaker. I rise in support of the  
Amendment. I'd like to thank Representative Leone for  
all the work he's done over the past two or three  
months, because it has been a labor of love and has  
taken a lot of coordination on the part of a lot of  
people.

And hopefully, we will evolve into a new way to  
finance development in the State of Connecticut, thank  
you.

DEPUTY SPEAKER GODFREY:

Representative Carson.

REP. CARSON: (108<sup>th</sup>)

Thank you, Mr. Speaker. Same question as in the  
prior Bill, through you to the proponent.

DEPUTY SPEAKER GODFREY:

Representative Leone.

REP. CARSON: (108<sup>th</sup>)

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Thank you. Representative Leone, this is again, limited strictly to the Town of Redding, Georgetown area, and also is enabling Legislation. The town will decide whether they want this district. Is that correct?

DEPUTY SPEAKER GODFREY:

Representative Leone.

REP. LEONE: (148<sup>th</sup>)

That is correct.

DEPUTY SPEAKER GODFREY:

Representative Carson.

REP. CARSON: (108<sup>th</sup>)

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Beamon.

REP. BEAMON: (72<sup>nd</sup>)

Thank you, Mr. Speaker. I would just like to deal with Section 7. I think it's very important in all these new taxing schemes that we have, that there is some reporting.

We've tried this in many other areas and we have been unsuccessful. This Amendment, as well as the last Bill we passed, both give the Clerk of the

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District the ability to file project activity reports on a quarterly basis, not only to OPM, but also to the Finance Committee.

We have not done that in the past, and we might even learn something in terms of how these projects are undertaken, so I really appreciate Representative Leone's hard work on this, and for putting this provision, Section 7, within the Amendment. Thank you.

DEPUTY SPEAKER GODFREY:

Are you ready for the question? Let me try your minds. All those in favor of Senate Amendment Schedule "A" signify by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER GODFREY:

Opposed, Nay. The Ayes have it. The Amendment is adopted. Will you remark further on the Bill as amended? Will you remark further?

If not, staff and guests please come to the Well of the House. Members take your seats. The machine will be open.

CLERK:

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The House of Representatives is voting by Roll  
Call. Members to the Chamber. The House is voting by  
Roll Call. Members to the Chamber.

DEPUTY SPEAKER GODFREY:

Have all the Members voted? If so, the machine  
will be locked. The Clerk please take a tally. The  
Clerk will announce the tally.

CLERK:

Senate Bill Number 1331, as amended by Senate  
Amendment Schedule "A", in concurrence with the  
Senate.

Total Number Voting	149
Necessary for Passage	75
Those voting Yea	149
Those voting Nay	0
Those absent and not voting	2

DEPUTY SPEAKER GODFREY:

The Bill as amended passes in concurrence with  
the Senate. Clerk please call Calendar Number 631.

CLERK:

On Page 14, Calendar Number 631, Substitute for  
Senate Bill Number 1194, AN ACT CONCERNING ARBITRATION

JOINT  
STANDING  
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differences? Because I realize the federal tax was changing over those years.

HENRY QUILLEN: Right, the tax was changing and exemptions were on schedules. They weren't fixed. So as a result, \$950,000 or \$1 million seems to be a pretty standard exemption across those states.

REP. STAPLES: Okay; so despite the fact that it was pegged at years in the federal tax, the exemption was roughly in the same categories.

HENRY QUILLEN: That's right.

REP. STAPLES: Okay. Thank you very much.

SEN. DAILY: Are there other questions? Thank you very much, Henry.

HENRY QUILLEN: Thank you.

SEN. DAILY: Mark Javello, followed by Mark Waxenberg, followed by John Emra.

MARK JAVELLO: Good afternoon. I'm Mark Javello, CFO of the Georgetown Land Development Company, located in Redding, Connecticut.

I'm here to testify about the benefits of Senate Bill 1331, specifically Sections 1-7. The bill before you would update existing legislation for the organization and operation of special taxing districts.

It would make Brownfield redevelopments eligible to establish special taxing districts

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and would provide support for green building and sustainable design projects.

There are three specific benefits of Sections 1-7 of this Legislation. First, the tax district is a financing model to help build core infrastructure and to maintain that infrastructure over the long term.

Second, the tax district becomes the regulating body, so the community that's being developed maintains its integrity.

Not just in the short term, but in perpetuity, and the residents who live there will maintain it like any other taxing district that exists in the State.

Third, it becomes the ongoing safety mechanism to manage the environmental controls necessary to maintain the health and safety of the site's occupants and maintain the integrity of capped-impacted soils that may remain onsite.

In short, it will make certain safety precautions put in place stay in place. As you know, any legislation which affects financing, revenue or bonding impacts more than just revenues.

In this case, the legislation will positively impact the redevelopment of Brownfield. A Brownfield is a property that suffers from a real or perceived environment impact.

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These sites are often left undeveloped because remediation makes many worthy projects too risky, expensive, and complex.

This is a very real problem. In Connecticut, there are about 200 Brownfield sites suitable for redevelopment.

Although there are significant benefits to redeveloping these sites, they remain underutilized, and in many cases, are abandoned eyesores.

Many of you have these properties in your own community. This legislation will help stimulate the redevelopment of these sites.

Mitigating environmental threats, creating tax ratables and jobs, and revitalizing those eyesores.

The old Gilbert and Bennett Wire Mill is one example of how this legislation could be applied. Our work to revitalize this site is a model, which could be replicated throughout the state.

It is a model for Brownfield redevelopments, smart growth, green building, and public private partnerships.

There are many other projects that would benefit from this legislation, whether it's in Bridgeport, New Haven, or Hartford.

This legislation will further stimulate Brownfield redevelopment appropriate to

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Connecticut's New England heritage. I'll be happy to take any questions that you have. Thank you.

SEN. DAILY: Thank you very much. Are there questions? Representative Hennessy.

REP. HENNESSY: Thank you, Madam Chair. Could you explain to me what the benefit is, the tax benefit?

MARK JAVELLO: When you say tax benefit, there's no benefit to, be more specific with the question, please.

REP. HENNESSY: Well, I'm not really what the bill intends. So could you, like, explain it to me?

MARK JAVELLO: Okay. We're asking that Brownfield sites, large former industrial facilities, that may be vacant or underutilized be able to form a taxing district, which is a quasi-municipality.

Which enables the quasi-municipality to maintain certain components of a master plan that may be in place, zoning.

Ongoing maintenance and monitoring of environmental issues that are associated with the Brownfield site. Have the ability to issue bonds like any other municipality.

Access the municipal bond market for revenue bonds. I think that answers the question, in general.

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REP. HENNESSY: Thank you very much. Thank you, Madam Chair.

SEN. DAILY: Are there other questions? You mentioned, I'm sorry. You mentioned perceived brownfields. But there really are brownfields or not brownfields. There might be a fear of a particular location.

MARK JAVELLO: Yes.

SEN. DAILY: The brownfield site-

MARK JAVELLO: Yes. And these are for brownfield sites. And it's a perceived or real environmental issue associated with that property.

SEN. DAILY: Thank you very much. Representative Belden.

REP. BELDEN: Thank you. Not having studied this bill at any great depth at this point, as a special taxing district, would this be a tax on top of municipal tax that already exists for that property within the community?

MARK JAVELLO: Within the taxing district, and the revenues, well it may be a tax, it may be, it's, it affords the municipality or the quasi-municipality.

The taxing district the ability to issue bonds, and then form a mechanism by which to pay back those bonds from assets within the taxing district.

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And that could be parking facilities, sewage treatment facilities. It could be, say, a condominium charge, similar to what you might find in a condominium development.

REP. BELDEN: Over and above the normal municipal taxes. Is that correct?

MARK JAVELLO: Perhaps. It may not be over and above.

REP. BELDEN: Thank you.

SEN. DAILY: How could it not be over and above? There's an obligation, an underlying obligation to the municipality in which the district is contained.

MARK JAVELLO: Right.

SEN. DAILY: So it is over and above, and that's certainly our intention in drafting the language, and that's the intention as we would move forward, it's to remain totally separate, the municipal--

MARK JAVELLO: Well, it may be. If you have for instance a parking garage, and you charge revenues or fees to park in the garage.

There's a revenue associated with that garage, hence a cash flow, which could support a bond. Same thing with the sewage treatment plant.

Now, that might be an additional tax, but it's usage charges to support the construction of the sewage treatment plant.

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SEN. DAILY: Whatever way that revenue is derived, it's over and above any tax obligation to a municipality in which the district is contained.

Thank you. Other questions? Thank you very much, sir. Mark Waxenberg, followed by John Emra and Sal Luciano.

MARK WAXENBERG: Good afternoon, Senator Daily. My name is Mark Waxenberg, Director of Government Relations for the Connecticut Education Association.

I'm here speaking in favor of Senate Bill 1321, AN ACT CONCERNING THE INCOME TAX. The focus of my remarks will be the underfunding of public education at the state level.

Which has a significant impact on the property taxpayer at the local level.

The Education Committee heard testimony last week from Dr. Edward Moskovitch, an economist, who has been following the funding of public education in Connecticut.

As you know, we had an education cost sharing system in Connecticut that was designed to distribute money, state money for education based on the wealth of a community.

Dr. Moskovitch stated that the state has underfunded the system by \$400 million in 1997, \$525 million in 2001, and based on the proposed budget, \$825 million in 2004.

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As it has in several of our neighboring states. And hope that you will consider an Earned Income Tax Credit at 20% of the federal earned income credit as a refundable credit targeted to the working poor.

And recognizing that lower income people do pay substantial taxes to the State, primarily through the sales tax.

Although they may not have state income tax liability due to the progressive structure of exemptions under Connecticut state income tax.

We will help both deserving individuals and the state economy when we take this reasonable step to support and assist hardworking low income families. Thank you, Mr. Chairman.

REP STAPLES: Thank you very much, Senator Looney. Any questions from Members of the Committee? Seeing none, thank you very much.

SEN. MARTIN LOONEY: Thank you again.

REP. STAPLES: Thank you. Okay, Mr. Frey, are you ready?

KARL FREY: Mr. Chairman, I apologize for that delay in setting up. Excuse me.

REP. STAPLES: No problem, go right ahead.

KARL FREY: Mr. Chairman, Members of the Committee, I'm very pleased to be here today to appear before you to speak both in support of Senate Bill 1331 under consideration.

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And to offer an overview of the two project that I'm working on that the passage of this bill will facilitate.

Senate Bill 1331 provides technical corrections to existing Connecticut laws that will allow the infrastructure of financing required by these projects.

With the town's support, this legislation is enabling the creation of a special taxing district in each town that will allow the development of two 55 and older age-qualified communities.

I have a letter to submit for the record in support of the bill from the Town of New Milford, and expect to deliver a similar letter in support of the bill from the Town of East Lyme.

The two main points that I'd like to discuss briefly about both projects are the strong positive economic development aspects.

And the conservation-minded approach that each project is taking. As the projects are both very similar, I may discuss them interchangeably.

Allow me to speak first about the conservation and preparation of open space. Both projects will be done in a traditional neighborhood development format.

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That keeps 90% of the units within a five-minute walk of the village center. Garages and parking are either under the buildings or traditional alley fed garages.

Further, the community by-laws will prohibit overnight on-street parking.

Human nature has shown time and time again that it's more, if it is more convenient for you to walk to your destination when leaving your home, that that is what you will do.

We are designing walkable communities where more often than not, residents will leave their cars in the garage.

The obvious benefit of concentrated development is land preservation. In the case of New Milford, we're acquiring 160 acres, and developing only 60.

Dedicating 100 acres to open space. In the case of East Lyme, we're acquiring over 300 acres, and developing less than 60, therefore dedicated 240 acres to open space.

Now, if I can touch on the positive economic development impact of each project. I'd like to talk about a study that was done by the National Association of Homebuilders.

That discusses a construction multiplier effect for projects that are built in a community as well as an ongoing annual effect regarding revenues received by local merchants.

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Based on the National Association of Homebuilders' model, our project in each town being very similar, we contributed about \$150 million to the local economy through the construction fees.

And the ongoing annual local effect would be just under \$40 million per community. Now recall that these are 55 and older age-restricted communities, they have no impact on the school systems.

Generally, I think that we'll be back in front of you several times in the future to work on projects like this in other towns.

Where we would like to propose that 55 and older communities of other states have recognized the economic drivers for the communities that they reside in.

Each project adds about \$225 million to the grand list of the town that it's in, and yet puts no children in the school system.

As it stands now, Connecticut has been exporting 55 and older residents to other states for more than a decade.

And I'd like to see us enable the state to, I'd like to see us enable the state to keep more of those folks in the state, and the revenue associated with their residences here. Thank you.

REP. STAPLES: Thank you very much. Any questions? Yes, Representative Belden.

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REP. BELDEN: I think if we don't pass Senate Bill 1321,

maybe we could just keep [inaudible - microphone not on]. Let me just make sure I understand your testimony.

Let me turn the mike on. There was earlier testimony about this particular bill about brownfields.

And I'm not quite sure this particular Legislature relates to brownfields, per say. Are you aware of, there's no brownfields involvement at these two communities, is there?

KARL FREY: Not at all. I'm sorry if I used incorrect terms, but I do have with me to assist me in answering some questions Marie Fallon of Pullman and Conley.

Who drafted the portion of the legislation that we're responsible for. I also have my partner Justin Mandlebaum.

As I understand it, there were two bills that were combined to produce Senate Bill 1331. Our projects have nothing to do with brownfields or any of the prior testimony on the bill.

REP. BELDEN: Let me just make sure in my own mind what a special taxing district would do here.

Normally, this development of this type would be somebody would come up with \$30 million of money through some financing mechanism.

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Develop the project, sell off the assets, so to speak, recoup their money, and move on at some point and time.

Essentially, this concept, as I understand it, correct me if I'm wrong, is what a special taxing district essentially.

There would be bonds floated based upon the future value or assets in this taxing district. And the people who were in fact, acquiring these properties, get to pay the bonds off.

Is that, so it's a different financing mechanism. Is that essentially it in a nutshell?

KARL FREY: It's very kind of you to ask that question, and it's not quite a nutshell answer, but I'll endeavor to be quite direct.

The reason America sprawls is because most developers cannot afford to build the type of infrastructure that we require to be built in order to build these walkable communities.

In a typical development, a developer will buy a piece of land, subdivide, put in a section of road, sell off lots or finished houses, and then move on and build the next section of road.

And that is in fact what creates sprawls, what creates sprawl, as well as zoning by-laws that encourage that type of development.

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In each town we've received unanimous support from both the Planning Commission and the Zoning Commission to make an amendment to the town's zoning by-laws.

To create the zone that allows this type of project to be built. Financially, the projects are not viable.

Without the special taxing district created in order to finance the tremendous amount of infrastructure up front that allows you to build a walkable community.

Otherwise, these projects would be developed in a more tradition subdivision format, and the aerial view would include no open space once the projects were built.

But rather, a sea of houses on quarter, half, or 2 acre lots, wherever the previously underlying zone allowed.

In the case of the East Lyme Project, there would be over 800 house allowed on the 300 acres in the 55 and over format.

They're done on small lot cul-de-sacs. There wouldn't be a scrap of open space when we were done.

In the case of the New Milford Project, there would be 57 homes allowed on the 160 acres, and again, done in the subdivision format where there wouldn't be a scrap of open space done when we were finished.

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By writing a zoning by-law that allowed this project to be built, first of all we facilitated the traditional neighborhood development, so a walkable community.

But the impact of that is to make the project not viable without the special taxing district, without you passing Senate Bill 1331.

In order to develop this concentration of homes in a 60-acre parcel, you can't have people and the size of machines that you need to put in an infrastructure living side by side.

And in putting this number of homes on 60 acres, you've got to do all of the infrastructure up front.

The infrastructure for each of these projects is in excess of \$25 million. There's no way that the projects are viable if a private developer has to come in.

Putting all that infrastructure up front before he can build a house or sell a lot. It is the anti-sprawl measure that we're trying to have passed here.

That will allow the smart growth of traditional neighborhood development communities to be built.

REP. STAPLES: One other question, if I might. The bonds that would be floated, they would be taxable bonds, and what would be the backup for the payment of those, the adherence, the surety, so to speak?

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KARL FREY: Thank you again, Representative Belden. That is one of the technical fixes to the existing general laws. The bonds are backed only by the credit of the project.

They don't even have the name of the town. And this is what has enabled both towns to support the idea of the special taxing district.

So we'll have bonds issued in the name of the Darryl Pond special taxing district, and, hopeful, bonds issued in the name of the Dunham Farms taxing district.

Those bonds are supported, and the credit of those bonds is based solely on the assessments placed on property within the district.

There is no default on those bonds that could fall back on the town. The town is not connected at all to the credit mechanism behind these bonds.

It is done solely on the economic viability of the project by itself.

REP. BELDEN: So then I would assume that the bondholder would releasing monies as the value of the property increases--

KARL FREY: That's exactly correct. In fact, these bonds are, although they may be bought by the retail investors, they're typically bought by very sophisticated institutions.

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Northwestern Mutual, Metropolitan Life are large buyers of these types of bonds. They understand the default rate nationwide on these, on over \$5 billion a year bonds, is exceedingly low.

So they, they're not rated bonds, and therefore carry a higher coupon. Their experience with these bonds is actually quite secure.

The bond proceeds are first put into a trust, and they are drawn down as the infrastructure is built, and actual improvements are created.

REP. BELDEN: Probably a deferred payment cycle in the first three or four years?

KARL FREY: Correct.

REP. BELDEN: Thank you.

KARL FREY: Thank you.

REP. STAPLES: Representative Leone.

REP. LEONE: Thank you, Mr. Chairman. Just a quick question. How did you come about to acquiring these two properties?

Did you have buy-in from the residents or the towns, I know you just mentioned that the town had some input, because of the capital of the financing, that they're for.

But how about the local residents? Because I'm just concerned that you could create these special taxing districts of some pristine land.

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Just because there's investment opportunity.  
And I wouldn't overrule people that want to  
keep open space.

KARL FREY: Thank you, Representative Leone. The  
first thing I do when I approach any town is go  
right to the senior elected official and give  
an ideal of what I would be proposing in their  
town.

And let them know right up front that if there  
is significant opposition, or in fact if they  
just simply ask me to go away, that this isn't  
something they would like to see in their town,  
that's exactly what I'll do.

So we don't try and rule over opposition, we  
try and embrace the communities and educate  
them as to what we're trying to do in their  
town.

That's not to say that there haven't been  
opponents in the public hearing who stood up to  
speak against the project.

But I can tell you that I've gone out of the  
way to embrace those opponents, to educate them  
about the project.

And actually in the case of some of the  
organizations that are initially opposed, the  
projects actually turn them around into  
supporters.

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So again, the current situation is that I wouldn't be before you if the projects weren't fully approved in each town.

So first we receive unanimous referrals back from the planning boards and zoning commissions or zoning boards, depending on which town.

And then we also have unanimous votes in each town that did three things. First, created the zone that allows the project to be built.

There're actually three separate unanimous approvals. Creation of zone that allowed the project to be built, rezoning of the property that I was to acquire into that newly created zone.

And then the concept plan approval for a community like the ones you see before you. You would not, by passage of this bill, which is a special act in this case related.

To just the town of East Lyme and New Milford, be doing anything that would put other towns in jeopardy nor other properties in these towns in jeopardy.

Unless they met the very tight zoning requirements that we drafted to make sure that we weren't rating spot zoning.

But that the towns knew exactly what they were going to get by approving that text amendment to their zoning by-laws.

REP. LEONE: So just to capitalize on it. So would

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it be safe to say that without the town's approval or the citizens' approval.

This wouldn't be something that another developer could come and say, because we've done this, this would allow them the right to go in to create a special taxing districts elsewhere?

KARL FREY: It's actually that you understand, and I think very important to your decision making process.

All you are doing is enabling these two towns to now take the matter into their own hands, and go upon it either through their Town Council or Board of Selectmen.

REP. LEONE: Okay. Thank you, Mr. Chairman.

REP. STAPLES: Senator Roraback, followed by Representative Shapiro.

SEN. RORABACK: Thank you, Mr. Chairman, and good afternoon, Mr. Frey. Is there any difference between Section 8 and Section 9 other the name of the municipality?

KARL FREY: Good question. No.

SEN. RORABACK: And I guess, I'm wondering why shouldn't we, or could we, if we know or if your lawyer knows, as a matter of policy, pass a general act.

Not a special act, but a general act permitting these financing mechanisms to exist as a matter

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of state law? Why does it have to be a special act?

KARL FREY: Thank you for the question, and I would very much like to be back here in the future to amend Connecticut's general laws to allow just for this type of financing.

Later on today you're going to here testimony from Bank of America's Securities stating that there are roughly 35 states in the country that use this type of financing to allow project to go forward.

That there's a \$5 billion annual market for this type of financing. It typically doesn't happen in Connecticut because there aren't large tracts of land available for this type of developing.

So the financing technique has not been, frankly, hasn't been needed. It's very difficult to get projects like this pulled together and hold them together long enough for them to be finally approved and break ground.

I'm sure in all of your communities, you've seen many times projects announced that never come to fruition. That shovel is never put in the ground.

My concern in going after special legislation as opposed to changing the general laws is that I might get caught up in other bills and other agendas.

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And that by focusing the special legislation on these two projects, we would be able to run a test piece whereby folks could look back in a year or two.

See that it was the right law to have passed, it is a good idea, and that we should then go forward and amend the general law.

SEN. RORABACK: Let me put it to this, put it to you this way. If we were to pass a general law, would it be all the same to you? You wouldn't object if we were to pass the general law.

KARL FREY: I would not object, but it would be, in my mind, really terrible, to see these two projects go away if the general law failed to be passed this year because it caught up in other agendas.

SEN. RORABACK: I understand that. And to follow up on Representative Leone's line of questioning, because New Milford is the community that I represent.

Nothing in this bill would operate give you a buy in securing all local approvals from the land use commissions.

And in fact, this can never happen, absolute approval, from the local town council, the legislative body of the town. Am I reading that correctly?

KARL FREY: I would, I hope that that's crystal clear in everybody's mind. That is 100% accurate.

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SEN. RORABACK: And my final question is that I understand this type of financing to provide a mechanism through which you would commit to the Town of New Milford.

The sum of \$10 million that they could use for open space acquisition in the name of the community. Is that contemplated as part of this project?

KARL FREY: That is correct. And the way the towns have decided or chosen to, or one of the reasons the towns have chosen to support this special act.

Is that by allowing the infrastructure to be financed up front, we make the project viable. By making the project viable, it's my desire.

And will be stated black and white in an agreement that follows passage of Senate Bill 1331 allowing the special district to be created.

There will be an inter-municipal agreement between the district and the town, and it will state very clearly in that inter-municipal agreement.

That as the first dollar for construction is spent on the project, the developer will match that with a dollar for conservation.

Into a [inaudible] not-for-profit, that in the case of New Milford, has already been created,

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and is on record with the Secretary of the State of Connecticut.

Until that trust reaches \$10 million in value. So we will effectively on the back of this project be donating \$10 million.

To the conservation and preservation of farmland, scenic vistas and general civic purposes in the Town of New Milford.

SEN. RORABACK: But you're gonna, you said on the back of this project, but you're going to be front-loading that investment.

The first \$20 million you spend, \$10 million will be for roads and foundations, and \$10 million will be into this dedicated fund for open space acquisition?

KARL FREY: That's correct. And when I say, I say on this back on this project is that duration's not possible if the project doesn't go forward.

SEN. RORABACK: Understood. Thank you, Mr. Frey. Thank you, Mr. Chairman.

REP. STAPLES: Representative Shapiro.

REP. SHAPIRO: Thank you, Mr. Chairman. Thank you, Mr. Frey, for coming up here today. It looks like you have some wonderful projects.

Along with what Senator Roraback and Representative Leone were looking at is the powers that are going to be enumerated for the

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new taxing, for the taxing districts under the act as amended.

Is one of those powers the ability to set up a separate agency or commission by which it can utilize the powers of eminent domain on its own?

I know you stressed that you wouldn't do anything without the cities. But often, when there are independent agencies.

They do that in concert with the cities so that the agency portion of the new district does the taking, not the city. Is that part of this?

KARL FREY: Representative Shapiro, we have no power of eminent domain proposed as part of the bill.

And it's not something that we would propose in any municipal agreement, if that were even possible, which I don't think it is.

I would furthermore state that I directed, I've tried to hire one of the best bond councils in the state.

I think Pullman and Conley actually represents the State of Connecticut. It has been my direction every step of the way to restrict these special taxing districts.

As much as possible even to the point that the district collapses once the bonds that have been used to pay for the infrastructure is paid off, the district no longer exists.

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So we're not looking to, you know, to create a monster anywhere. The district is designed to be created solely to issue bonds.

To build the infrastructure for the proposed projects that have already been approved. And then, once those bonds are paid off, the district will collapse.

REP. SHAPIRO: Thank you very much. Thank you, Mr. Chairman.

REP. STAPLES: Representative Belden, did you have your hand up?

REP. BELDEN: Yes, thank you, Mr. Chairman. Let me go back, now. The bonds only cover the infrastructure. At what point and time will these bonds be paid off?

KARL FREY: They are designed to be 20-year bonds.

REP. BELDEN: Twenty year bonds. So they support the infrastructure, but they also support the buildings on the project as well?

KARL FREY: Not at all. The bonds are used only for curb, gutter, water, sewer, paving the streets-

REP. BELDEN: Okay, so there's going to be another entity that's going to come in and build all of this.

KARL FREY: Correct.

REP. BELDEN: Okay. What if there's a default? I

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got to ask that question because I've seen defaults happen before.

And now we're talking about a great housing market right now in Connecticut, because for this particular age group, it'll probably continue.

But what happens if you're partway through the project and something goes haywire? Is there, can there be anything in agreement?

That the bondholder get to finish the project? Is there a guarantee the project will be finished? What happens?

KARL FREY: First I'd like to ask you to address that question again to the Bank of America, testifying in position 44, I think. Because again, this is a \$5 billion annual market around the country.

There are 35 states that have this type of legislation, and the experience of buyers of these bonds regarding defaults is exemplary.

The projects go through a rigorous underwriting. That's not to say a project can't default. But the projects go through a rigorous underwriting.

And only a project that has met the best tests of marketable real estate are going to make it to the point where they can actually issue bonds and the bonds can be sold.

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Once that has occurred, the bonds are issued, the bonds are sold, they are now in the hands of institutional and/or retail investors.

God forbid there is a default on the bonds, all that risk is borne by the property owner.

Which, to the point and time, is me as developer of the project. In order to keep the bonds current, I would have to make up any shortfall in the interest.

As you mentioned, there's a deferred payment cycle on the bonds, there is quite a bit of capitalized interest. In the issuance of the bonds there are belts and suspenders and cushions.

And everything you can imagine to keep the bonds defaulted, if you will. In the event of default, bondholders would act like any other bondholders.

They would likely bring in another developer to finish the project. They would write down the value of their bonds.

But I think it's very important to understand that in no case can the bondholders proceed against the host towns of these communities.

These bonds are issued only in the name of the special tax district that existed to create the bonds.

So you would have the development of Dunham Farm or Darryl Pond in default, you'd have

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homeowners paying their taxes in good standing, no one could come and foreclose out their house.

But the bondholders would proceed against the rest of the land and the development, and I presume would like to see it finished over time.

REP. BELDEN: I think that's the, what I was really getting to is that heaven forbid, something happens.

And you end up with a scarred site and it takes years to sort out all the players and determine and move forward.

The Town of New Milford is stuck, to some degree, with a scarred site for a period of time. And I just--

KARL FREY: I actually think that's very important. I would want to correct that impression, because I think it's incorrect.

You would not have a scarred site at all. The bonds are issued with several issued of capitalized interest the infrastructure takes less than two years to create.

So long before the bonds ever went into default, you would have all of the completed infrastructure in place for the development that you see in front of you.

At that point and time, the only one who has lost money is the developer because there is

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significant equity in the project that would have to be eaten through in the idea of a bad market.

And once, let's say in a project of this magnitude, the developer would be expected to have about \$40 million of equity in the project.

First all of that equity would have to be eaten through. Now you've got all of the infrastructure in place, and presumably you have some homes built as well.

When the bondholders step into the game, if you will, the bondholders own this land full improved for \$30 million. That is an incredible value.

The full improvement value of this land is somewhere well in excess of \$60 million. That's off the top of my head, but I'm pretty sure I'm accurate on that.

So the bondholders would own a fully improved site at \$.50 on the dollar, and it would be hard for me to imagine that they couldn't make money building and selling homes at that point.

They would still be subject to all of the restrictions that the town had approved on the site.

You know, even the, even the worse case scenario of a bond default, I expect you would see a very nice completed development on the site.

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And certainly there would be no scarring of the landscape. The infrastructure's complete before the bonds are spent.

REP. SHAPIRO: Just wanted to get that clear.

KARL FREY: Very important. Thank you.

REP. STAPLES: Representative Leone.

REP. LEONE: Thank you again, Mr. Chairman. Just to clarify, you mentioned briefly this taxing, this special taxing district will collapse upon its completion.

Can you sort of clarify again what that means? Does that then allow the local communities to sort of absorb that new asset of new homes and then start taxing them at their current rates?

KARL FREY: Terrific. That's the way it's designed, is that correct? The tax, the homes will always be taxed at the current rates of the town that they reside in.

So a, this will be done in a [inaudible] format. The land is under common ownership, on the site plans, small odd single-family homes.

That home will be taxed no different than if it existed anywhere else in the Town of New Milford. It's just that it's inside the special taxing district.

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And once the district collapses, all the revenues from that home [inaudible] to the benefit of the town.

REP. LEONE: So the special taxing is just really for the investment and to build this set up, not so much for the resident who then purchases a home in that environment?

KARL FREY: The special taxing district is created specifically to finance the infrastructure that allows the community to be built. Roads, water, sewers, curb, gutter.

REP. LEONE: Thank you. Thank you, Mr. Chairman.

REP. STAPLES: Any other questions? Representative Altobello.

REP. ALTOBELLO: Thank you, Mr. Chairman. Would this then be subject to CIOA?

KARL FREY: I'm sorry?

REP. ALTOBELLO: Would this development be subject to CIOA? Common Interest Ownership Act?

KARL FREY: As I understand it, not by virtue of the statute, but it will be a condominium ownership structure.

REP. ALTOBELLO: But you believe it would be exempt from Connecticut law regarding Common Interest Owner Act?

KARL FREY: I don't believe it would be exempt from

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any law. So the answer is it would follow the same Connecticut laws that every other development follows.

There's no ulterior motive in the bill. If there's something I'm missing, I'd like to understand it and address it directly.

REP. ALTOBELLO: I had some, this is somewhat unusual for us. Obviously, you're getting some questions that--

KARL FREY: I'm delighted to take them.

REP. ALTOBELLO: Sure, and I was just wondering if, we have a common interest ownership act in Connecticut. It was one of the first in the nation, actually.

It has to do with land, condominiums, and those sort of things would have common ownership of certain, in this case, I believe you said the land would be under common ownership? Is that correct?

KARL FREY: You know, unfortunately the attorney I brought with me is bond council, not a condominium specialist. But these will be developed in a condominium format.

Whatever laws are on the Connecticut books regarding common interest ownership would adhered to, so--

REP. ALTOBELLO: That should do that part. Thank

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you. And secondly, would you contemplate that the towns would require a performance for the infrastructure work that you'd be performing?

KARL FREY: Yes, I do contemplate there will be--

REP. ALTOBELLO: And that will take care of the many other concerns that people had about rather or not the project got started and not finished.

KARL FREY: Excellent. Thank you.

REP. ALTOBELLO: You're welcome. Thank you, Mr. Chairman.

REP. STAPLES: Representative Belden.

REP. BELDEN: Yes, I might suggest that somebody might want to review the, Connecticut's condominium law.

To determine whether there are any conflicts between special tax district legislation and the condominium law and other zoning requirements.

Regarding starting projects within certain times, and all of that. But you haven't thought of the Condominium Law in the State of Connecticut, had you?

KARL FREY: No, actually as I understand, it's been addressed by others, it's just not the professionals that I brought with me today.

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As I understand it, this special taxing district that we are proposing meshes very well with Connecticut Condominium Law.

REP. STAPLES: Any other questions? I don't see any, I think you're done. Thank you very much.

KARL FREY: Thank you, Mr. Chairman. Thank you, Members of the Committee.

REP. STAPLES: Donna Vincenti, followed by Betsy Patterson, then Rupi Rupwani.

DONNA VINCENTI: Representative Staples, Members of the Finance, Revenue and Bonding Committee, thank you for the opportunity to comment on Senate Bill 1332, AN ACT CONCERNING THE ESTATE TAX.

My name is Donna Vincenti, I'm an attorney in private practice in New Hartford and Lakeville, where I represent clients in the areas of estate planning and estate and trust administration.

John Ivimey, who is with me, is a member of the law firm Reid and Riege in Hartford. We together, are Co-Chairs of the State Tax Committee of the Estates and Probate Section of the Connecticut Bar Association.

The CBA Estates and Probate Section appreciates the opportunity to play an advisory role to the Committee and the Legislature.

In addressing the fiscal and budgetary challenges facing the state resulting from the

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REP. GIANNAROS: But we cannot count on that. And those numbers that you have here are not going to work out next year. They're not going to be here. I can almost guarantee that.

RICHARD HINES: And all the towns should be considering that.

REP. GIANNAROS: And we have to be careful not to assume that's going to solve your problem.

RICHARD HINES: I agree with you.

REP. GIANNAROS: Okay, thank you.

SEN. DAILY: Thank you very much. Are there other questions?

RICHARD HINES: Thank you.

SEN. DAILY: David Bernat followed by Michael Winterfield and Chris Lorch.

DAVID BERNAT: Good afternoon. Senator Daily, Representative Staples, Members of the Joint Committee. My name is David Bernat.

I am the Principal of Bank of America Securities and the Market Manager in Public Finance for the Bank of America Securities in the State of Connecticut.

I am also a Connecticut resident. I wish to speak in support of Senate Bill 1331, in so far as Milford and East Lyme projects are concerned.

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In so doing, I wish to offer certain general comments about the use of special assessment districts as vehicle to finance infrastructure improvements by issuing special assessment bonds.

And in so doing, supplement some of the comments you heard recently by Mr. Karl Frey. Special assessment districts is a financing vehicle nation [Gap in testimony. Changing from Tape 3B to Tape 4A.]

The average amount of special assessment bond issuance these ranges around \$5 billion nationwide.

In 2005, Bank of America Securities expect we will be involved in the underwriting [inaudible] of 50 such transactions, totaling approximately \$1 billion nationwide.

[Inaudible] in addition to Connecticut, we have financing experience with this same structure in at least five other states, including Massachusetts, Rhode Island, New Jersey, Newark, and Pennsylvania.

In terms of transactions that have recently concluded or are about to conclude. In fact, the only two states of the eastern seaboard that we have not been involved in are West Virginia and Delaware.

Special assessment district should be seen as being a very desirable way of effecting desirable infrastructure improvements when a

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general obligation bond issued by a municipality [inaudible] able to do so.

And I say that in two ways. First, the structure is desirable because it allocates the risks associated with the project to those within the district who own the property and benefit from the financing.

Conversely, when a special assessment district issues special assessment bonds, it ensures that residents of that very municipality that do not live in the district.

That is benefited by the bond issue don't bear the costs or the risks associated with infrastructure improvement being financed within the district.

In that sense, this kind of approach can be best seen as targeted or smart development. This concludes my remarks, and I'm happy to answer any questions the committee may have.

SEN. DAILY: [Inaudible - microphone not on]

DAVID BERNAT: Yes.

SEN. DAILY: [Inaudible - microphone not on]

DAVID BERNAT: It's an appropriate financing risk for the investors, who will make their own due diligence and judgment as to the nature of the investment that they would make.

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And typically, institutional investors who buy this paper make that judgment and feel that it's an investment they can live with.

I might add that in the transactions that the Bank of America's Securities have been involved, I'm unaware of a single default.

SEN. DAILY: Are there other questions? Thank you very much.

DAVID BERNAT: Thank you.

SEN. DAILY: Michael Winterfield, followed by Chris Lorch and Leonard Campbell.

MICHAEL WINTERFIELD: Good afternoon, Senator Daily and Representative Staples, Members of the Committee. My name is Michael Winterfield.

I have submitted my written testimony in support of Senate Bill 1321. I'm wearing two stickers today. On the one hand, I am speaking in behalf of the Interfaith Coalition for Equity and Justice.

I serve as the Tax Task Force Co-Chair. My other sticker, this little green sticker, says "Tax Me." I am also speaking today as a prosperous citizen of the State of Connecticut.

And I feel that prosperous citizens like myself have responsibility to be taxed a little bit more to support worthy causes.

I'll just briefly highlight some portions of my written testimony. The Blue Ribbon Commission,

JOINT  
STANDING  
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HEARINGS

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**Town of Redding**

REDDING, CONNECTICUT 06875

**Written Statement from Natalie Ketcham  
First Selectman, Redding, Connecticut  
For submission to the Finance, Revenue and Bonding Committee  
Monday, March 21, 2005**

**In Support of:  
Raised Bill No. 1331**

I am writing in support of Bill Number 1331. This legislation will benefit many communities which, like Redding, are facing the challenge of redeveloping a Brownfield.

The situation which led to the Brownfield located in Redding on the former Gilbert & Bennett wire mill site is not unique. Like many successful manufacturing companies in Connecticut during the early 1800s, the Gilbert & Bennett Manufacturing Company flourished for over 150 years. But when the company faltered and fell into disrepair, it left behind a site with serious problems. The property, once a thriving mill had become a legal and financial challenge to redevelop and an eyesore to the community.

It changed ownership over the years but liability issues and lack of foresight by each owner prevented any significant progress from being made. In fact, with unpaid taxes mounting, the problem was getting worse.

The Town of Redding began researching potential partners willing to restore and revitalize the Georgetown area. Our mission was to identify and facilitate redevelopment

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opportunities that would benefit our community aesthetically, culturally and economically. We needed a partner that would understand our concerns, value our history and recognize the importance of creating a development that blended well with our established infrastructure. Redding found that partner in the Georgetown Land Development Company (GLDC).

GLDC's plan incorporates the priorities and ideas of our residents and is the result of an effective public/private partnership. This partnership can serve as a model for other communities who might be frustrated by the challenges of redeveloping a Brownfield site. Updating tax district legislation will help. It will convince communities and developers that it can be done in their town too and it will give them the tools to do it.

The raised bill number 1331, Sections 1 through 7, updates legislation already in effect to make Brownfield redevelopment sites eligible to establish Special Taxing Districts and support green building and sustainable design projects.

It is an effective way to stimulate redevelopment across the entire state because this legislation answers fundamental questions and supports the use of environmentally sound building techniques and green technology.

This legislation answers questions about how Brownfield redevelopments can be financed, how communities can be empowered to maintain their own oversight of redevelopments and how both the financing and the oversight can be maintained over the long term.

I strongly support this legislation and believe it will benefit not only Redding, but many other towns and cities throughout the state.

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**Testimony of  
Mark Javello  
Chief Financial Officer  
Georgetown Land Development Company  
Before the  
Finance, Revenue and Bonding Committee  
Monday, March 21, 2005**

**In Support of:  
Raised Bill No. 1331  
An Act Concerning the Organization and Operation of Special Taxing Districts**

Good morning (afternoon). I'm Mark Javello, CFO of the Georgetown Land Development Company located in Redding, Connecticut.

I'm here to testify about the benefits of bill number 1331 – specifically Sections 1 through 7.

The bill before you seeks to update existing legislation for the organization and operation of special taxing districts. It seeks to include Brownfield redevelopment sites as eligible to establish Special Taxing Districts and provide support for green building and sustainable design projects.

Sections 1 through 7 of this legislation will help tax districts become a tool to empower communities. There are three important, specific benefits of this legislation.

1. First, the tax district is a financing model to help build core infrastructure and to maintain that core infrastructure over the long-term.
2. Second, the tax district becomes the regulating body so the community that's being developed maintains its integrity – not just in the short run but in-perpetuity – and the residents who live there will maintain it like any other tax district that exists in the state.
3. Third, it becomes the on-going safety mechanism to manage the environmental controls necessary to maintain the health and safety of the site's occupants and

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maintain the integrity of the capped impacted soils on-site. In short, it will make certain safety precautions put in place do stay in place.

As you know, any legislation which affects financing, revenue or bonding impacts more than just revenues. In this case, the legislation will positively impact the redevelopment of Brownfields throughout Connecticut.

Old manufacturing sites are called Brownfields because they suffer from real, or sometimes just perceived, environmental contamination. These sites are often left undeveloped because the added and uncertain costs of remediating the site make many worthy projects too risky and complex.

This is a very real problem. In Connecticut there are approximately 200 Brownfield sites suitable for redevelopment. Although there are significant benefits to redeveloping these sites, they remain underutilized and, in many cases, are abandoned eyesores. Many of you have these properties right in your own community.

This legislation will help stimulate the redevelopment of these sites -- mitigating environmental threats, creating tax abatements and revitalizing those eyesores. Most important, this legislation was written to empower communities and encourage unique redevelopments.

The Georgetown Land Development Company is one example of how this legislation could be applied. Our work to revitalize the Gilbert and Bennett Wire mill is a model, which can be replicated in many ways throughout the state. It is not only a framework for Brownfield redevelopment, but also for smart growth. It is a model for green building, green development and successful public/private partnerships.

The true test of a public/private partnership is whether or not your redevelopment plan is approved. Our redevelopment plan was filed in June of last year and was

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unanimously approved, without appeal – 4 months later. That included working with four towns and two regional planning agencies.

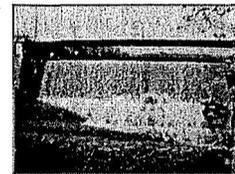
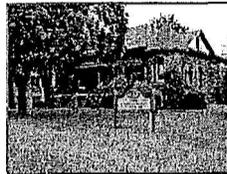
Forming a tax district is a natural extension of this kind of successful collaborative effort. It is a natural extension because the tax district is the mechanism by which standards jointly set in place will be kept in place for decades to come.

Natalie Ketchum, First Selectman of the Town of Redding, has been a very positive part of this partnership. She has submitted testimony on how this public/private partnership has worked and in support of change to the taxing district legislation.

There are many other projects currently underway in Connecticut that would benefit from this legislation – whether it's in Bridgeport, New Haven or Hartford – this legislation will further stimulate Brownfield redevelopment more appropriate to Connecticut's New England heritage.

I will be happy to take any questions you have. Thank you.

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## GEORGETOWN LAND DEVELOPMENT COMPANY

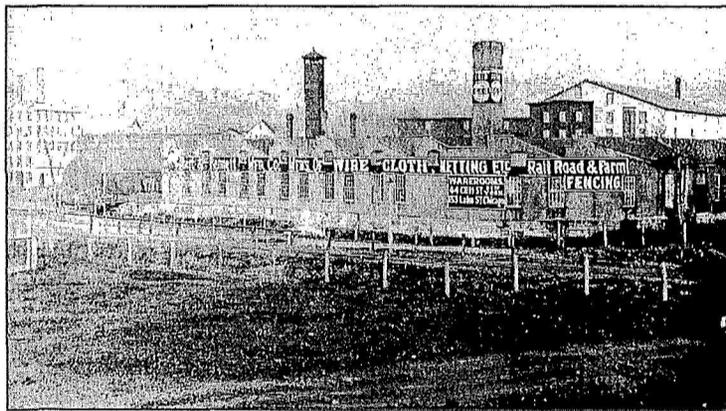
### GENERAL FACT SHEET

#### Georgetown Land Development Company

The Georgetown Land Development Company (GLDC) is a socially conscious real estate development firm based in Georgetown, Connecticut. GLDC's business philosophy is to integrate smart growth ideals with sustainable development building practices. GLDC owns the 55 +/- acre former Gilbert & Bennett Wire Mill site, located in Georgetown, an area within the Town of Redding, Connecticut. GLDC's goal is to rehabilitate the site's historically significant buildings and redevelop the property consistent with Redding's master plan for the overall redevelopment of Georgetown.

#### A History of Manufacturing

In 1818 Benjamin Gilbert started weaving the long hair of cattle and horses to create sieves for sifting. Several years later he was joined by his son-in-law, Sturges Bennett. By 1834 they began using wire instead of cattle and horse hair in order to improve durability and, in 1838, relocated the business to the existing property. This was the beginning of their long manufacturing history – a history that would span over 150 years.



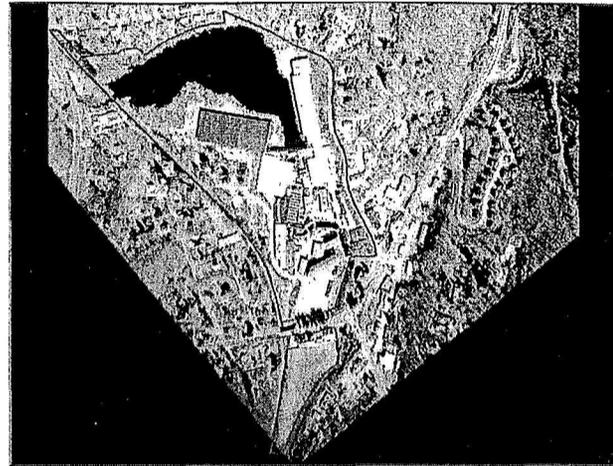
The company grew to become the major employer for the area. In 1874 and 1889 fires destroyed significant portions of the factory. In both cases the Company regrouped, rebuilt and grew stronger. By the early 1900's the company had perfected their process and, as a result, embarked on a growth pattern, which did not end until the mid 1970's.

In 1985 the company was sold to investors who envisioned using the site to build condominiums. The break up value of the company and its property became greater than the operating value. In 1989 the company moved its operations to Georgia and production at the factory ceased. In 1998 the company filed for bankruptcy and let the facility go into disrepair. Mounting unpaid taxes led the Town of Redding to search for a partner who would purchase the past due taxes, characterize the environmental condition and involve the public in a meaningful way in the redevelopment planning process. In 2002 Redding entered into such an agreement with the Georgetown Land Development Company.

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### The Gilbert & Bennett Site: Creating a Community Asset

Under the terms of the agreement with the Town of Redding, the Georgetown Land Development Company characterized the property during the spring and summer of 2003. With results in hand, and the appropriate "base line information" in place, GLDC held an intensive planning session involving local, state and federal stakeholders called a charrette. This week-long event involved more than ten extensive meetings, which were attended by over 1,000 people, and created the framework of a master plan for development.



With this week of the needs of the community. This includes: a new performing arts center, which will integrate local dance studios and the very active local theatrical community which also has strong ties to Broadway and Hollywood; affordable senior housing for the residents of Redding; the creation of a new health facility which will include a state of the art 50 meter pool and diving well; a pedestrian-friendly village center that places structured parking behind buildings; and re-creating the Georgetown Train Station with sufficient parking to provide transit access to New York City's Grand Central Station.

### Integrating Cleanup and Reuse

Part of the national trend toward cleaning up and redeveloping Brownfield sites involves taking future use into consideration when designing remediation plans. The purpose is to tailor the clean up to the intended reuse such that the property is safe for occupation. This common sense approach is protective of human health and the environment and is the most appropriate method of remediating the former Gilbert & Bennett Wire Mill site.

The master plan creates a community that will integrate single family homes, townhouses, work/live lofts, commercial/retail space, a small community hotel and community space. Buildings placed closer together, exteriors designed to be safe and attractive for pedestrians, streets constructed for slower speeds and traffic dispersed through many different connections will create a pedestrian friendly environment.

Management of the institutional controls that will be used as part of the remediation strategy will be administrated through a Tax District created for the development. This Tax District will allow for long-term stewardship of the property -- essentially creating a quasi municipal agency that will hold open space as well as enforce architectural standards. It also allows for long-term management of the institutional controls by upholog deed restrictions, caps and associated engineered controls involved with the remediation of the property; and maintaining a governing force to handle quality of life for residents such as trash removal, snow removal, lawn and garden maintenance, etc.

### Contact Information

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Website [www.georgetownland.com](http://www.georgetownland.com)  
Address Georgetown Land Development Company  
PO Box 36, One North Main Street  
Georgetown, CT 06829-0036

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**GEORGETOWN**  
LAND DEVELOPMENT COMPANY

***TIMELINE & FACT SHEET***

Gilbert & Bennett Manufacturing Company was founded by Benjamin Gilbert of Georgetown, CT, in 1818. A tanner and currier by trade, he saw the opportunity of weaving the long hair of cattle and horses to create sieves for sifting. Later, wire was substituted to improve durability and thus began a long history of wire cloth, netting, fencing, and goods manufacturing--a history that would last over 150 years.

***Timeline***

1818	Gilbert & Bennett Manufacturing Co. founded
1985	Gilbert & Bennett LP purchases site from Georgetown Manufacturing Co.
1998	Gilbert & Bennett Limited Partnership files for bankruptcy
September 2002	Redding signs agreement with GLDC selling outstanding tax liens, including interest and fees for \$999,252.20.
October 2002	Environmental Study begun.
October 2002	GLDC initiates foreclosure proceedings on property
March 2003	GLDC acquires note and mortgage to property from Commercial Bank of Kuwait
July 2003	Environmental Site Characterization Work Plan approved by CT DEP
October 2003	Redevelopment charrette involving all stake-holders
June 2004	Master Plan submitted to Redding Zoning Commission
September 2004	Master Plan <b>APPROVED</b> by Redding Zoning Commission

***Facts***

<b>Owner:</b>	Georgetown Land Development Company One North Main Street Georgetown, CT 06829
<b>Size:</b>	55 +/- acres
<b>Current Status:</b>	Former manufacturing facility
<b>Current Use:</b>	Mostly unoccupied, some light commercial use
<b>Current Tenants:</b>	U.S. Park Service's Weir Farm Maintenance facility The Stanley Steamer Car Company The custom woodworking shop of Mark Herman Housewright A&B Woodworking Performance Landscaping Holmes Fine Gardens Paws/Pup
<b>Approved Plan:</b>	A \$300 million mixed-use project with 416 residential units; 109,771sqf of retail and restaurant use; 113,525sqf of office space; 88,488 sqf of civic use; 38,428sqf of light industrial use and 18,258sqf of hospitality use is a pedestrian friendly environment.

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**GEORGETOWN**  
LAND DEVELOPMENT COMPANY

***Management Team***

**Stephen M. Soler**

Mr. Soler is the President of the Georgetown Land Development Company - the owner and developer of the 55 acre former Gilbert & Bennett wire mill located in Georgetown, Connecticut. He is widely recognized as an expert in Brownfield Development with a specialty in financing acquisition and remediation of Brownfield sites. Mr. Soler is a faculty member of the Steven Newman Real Estate Institute at Baruch College where he teaches investing and developing distressed real estate. He has lectured and has been published across the country on a wide range of development, environmental and financing issues. Mr. Soler is a graduate on the University of Massachusetts at Amherst and a member of the American Planning Association.

**Mark Javello**

Mr. Javello is the Chief Financial Officer as well as the president of Spin Vision LLC, which he established to identify, rehabilitate and invest in environmentally distressed properties. He is a founding member of AquaTerra Realty Holdings, established in 1994, and is widely recognized as a pioneer in Brownfield investment and rehabilitation. In addition, Mr. Javello founded and managed AquaTerra Environmental Services Corp, an international environmental and engineering real estate due diligence consulting firm. Mr. Javello received a Masters of Science from MIT, Sloan School of Management and a Bachelors of Science in mechanical engineering from Tufts University. He is a Certified Hazardous Materials Manager.

**William Penn**

Mr. Penn, an expert in environmental and real estate financing, provides financial advisory services worldwide to nonprofit organizations, businesses and governments and lectures widely. He works frequently with foreign governments, the World Bank and USAID. Mr. Penn serves as professor at Baruch College and volunteer Chairman of the Finance Committee of the Rhode Island Water Resources Board and of Preserve Rhode Island and past Chairman of the Block Island Land Trust. He began his career with the Chase Manhattan Bank after graduating from Rutgers University College of Environmental Science with a BS in Economics. Mr. Penn then served as Senior Vice President of Fleet Bank of Rhode Island responsible for domestic and international financial institution banking business.

**Scott Harrison**

Mr. Harrison is Vice President for Georgetown Land Development Company, LLC. In that capacity, he oversees the physical plant and infrastructure planning for the redevelopment. Prior to his involvement he was a principal in Turner & Harrison, a premier mechanical contracting firm servicing lower Hudson Valley, Westchester County and Western Counties in Connecticut. Responsibilities included; estimating, project management, job costing and receivables management. Mr. Harrison has served as president of the Sheet Metal and Roofers Employers Association and as a Management Trustee of Health, Welfare and Retirement Funds for Sheet Metal Workers Local 38. He was actively involved with Sheet Metal and Air Conditioning Contractors National Association (SMACMA) on a national level. Mr., Harrison is a graduate of Alfred University.

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*Serving the Public Interest*

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May 11, 2005

**RE: Substitute Raised Bill No. 1331:**

**AN ACT CONCERNING A STUDY OF THE ORGANIZATION  
AND OPERATION OF SPECIAL TAXING DISTRICTS**

**Via Hand Delivery**

Hon. Eileen M. Daily, Senate Co-Chair  
Hon. Cameron C. Staples, House Co-Chair  
Hon. John W. Fonfara, Senate Vice Chair  
Hon. Carlo Leone, House Vice Chair  
Members of the Joint Finance, Revenue and Bonding Committee  
Connecticut General Assembly  
Room 3700, Legislative Office Building  
Hartford, CT 06106

Dear Chairpersons and Committee Members,

By memo dated April 19, 2005, Senator Andrew Roraback and Representative Mary Ann Carson notified New Milford Mayor Patricia Murphy that the Joint Finance, Revenue and Bonding Committee had determined to refer the captioned legislation to the selectmen of Redding and East Lyme and the town councils of New Milford and Bridgeport to consider whether they would vote to request the adoption of this legislation as it affected their respective municipalities. The towns have been requested to report their vote to the General Assembly no later than May 13, 2005.

In consideration of the importance of this vote to the Town of New Milford, the New Milford Town Council scheduled a public hearing on today's date. The enclosed materials were prepared by the undersigned presenter solely with respect to issues raised by this legislation as they affect the Town of New Milford.

I have been requested to provide a copy of these comments to the Committee for its further consideration. Based on the enclosed materials, and without presuming to speak on behalf of the Town Council, we respectfully request the Committee to report its finding that Substitute Raised Bill No. 1331 ought not to be adopted.

Please do not hesitate to write or call with any comments or questions.

Very truly yours,



Lowell L. Peterson

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Review and Assessment of Raised Senate Bill 1331

*AN ACT CONCERNING THE ORGANIZATION AND  
OPERATION OF SPECIAL TAXING DISTRICTS*

Prepared by Attorney Lowell L. Peterson, Managing  
Member

Community Law Practice, LLC

At the request of Weantinoge Heritage, Inc. for the  
information and consideration of the New Milford Town  
Council and Connecticut State Legislature

Presented to the Town Council  
May 11, 2005

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**NOTE:** As of May 3, 2005, the Joint Finance, Revenue and Bonding Committee presented its favorable report on Substitute for Raised Senate Bill No. 1331, entitled:

*An Act Concerning A Study Of The Organization And Operation Of Special Taxing Districts*

The Substitute Bill has been tabled for the Senate Calendar. The result of the Substitute Bill, if adopted, will be, in effect, to require the Committee chairpersons to direct a study to consider the advisability of investing certain officials in the Towns of East Lyme and New Milford with the power to create those special taxing districts contemplated by the original Raised Bill. Because the long-term net result of the Substitute Bill may be to achieve the same ends as those desired by proponents of the proposed original Bill, this analysis is limited to a review and discussion of the merits or defects of the original Bill. Notwithstanding that qualification, any observations in this analysis will be equally applicable to the study proposed by the Substitute Bill.

Introduction of the Speaker

My name is Lowell Peterson and I am speaking here tonight to offer expert testimony in regard to my evaluation of the proposed legislation, Raised Senate Bill 1331, AN ACT CONCERNING THE ORGANIZATION AND OPERATION OF SPECIAL TAXING DISTRICTS. I will briefly explain my credentials as follows: My educational experience includes having graduated first in my class from the University of Tulsa College of Law and having also obtained Master's degrees in Humanities and in Public Administration. Commencing in 1990, I worked for approximately ten years as both a bond counsel and municipal attorney for multiple Connecticut cities and towns. Accomplishments during this period included: documentation and implementation of the Bluefish Stadium Redevelopment Project, Bridgeport; serving as bond counsel to multiple Connecticut special taxing districts; refunding of the CRRA/Resco waste-to-energy plant in Bridgeport and the Bristol Resource Recovery Facility in Bristol; development counsel for the Long Wharf Development Project in New Haven; bond counsel for the first enterprise zone facility bonds issued by a new urban empowerment zone in the United States (New Haven); permitting of facilities and projects for retail developers, including The Taubman Company (owner/operator of major shopping malls), the Stop & Shop Supermarket Company and the Konover Development Corporation; writing and adoption of special legislation for municipal development projects and amendments to the State Transfer Act to facilitate the rehabilitation of Brownfield properties; providing counsel and preparing municipal bids for designation of blighted areas as federal or state enterprise zones; preparation of memoranda of understanding between the Connecticut Capitol Region Growth Council and its financial backers/service providers for the Hartford Millennium Project; obtaining grant financing from the Department of Economic and Community Development for Millennium programs; and negotiation and documentation of tax lien sales for the Cities of Hartford, Meriden, Waterbury, and New Haven, and the Town of Newtown. Since 2001, I have been in my own public interest practice in the historic North End neighborhood of Hartford.

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#### Background of the Legislation

Developer Karl Frey, principal of Vespera Investments, proposes the construction of a 508-unit "active adult" (55+) residential, condominium "village" community on property located on Candlewood Mountain in New Milford presently belonging to Carl Dunham and to be known as the Dunham Farm Active Adult Development. Among his selling points in attempting to persuade the Town of New Milford that this project will enhance the community is his claim that he plans to build this project as a cluster-style development on 60 of 160 acres, and dedicate the balance as perpetual conservation area. This "environmentally friendly" offer, of course, overlooks the fact that he is planning to extend sewer improvements and other extensive infrastructure into heretofore pristine areas designated on the State Plan of Conservation and Development ("POCD") as Rural Area, and as to which the Office of Policy and Management has expressly rejected a request to change the designation to Growth.

Mr. Frey has also become the architect and advocate, with the assistance of his bond counsel Marie Phelan of Pullman & Comley, of proposed Senate Bill 1331 that he acknowledges is "necessary" to make his project feasible because of inordinately high up-front costs of introducing the needed services on a high density basis to an otherwise remote location. In its original formulation, this Bill was intended to enhance the powers of statutorily recognized special districts to undertake remediation projects in designated "Brownfield" (former industrial) sites. However, expressly for the benefit of projects planned by Mr. Frey, Sections 8 and 9 were added to the Bill in order to create special districts with significantly expanded powers, and not limited to Brownfield site, in the Towns of East Lyme and New Milford, respectively.

This Bill, if passed, will enable the Mayor of the Town to create and appoint, by her own action without requiring Council approval, the board for a "special district" that will then hold a meeting, elect officers, adopt bylaws and adopt a first report and a plan that will be recorded with the Town Clerk. Upon doing so, the legislation declares that the special district is deemed to exist without any requirement whatsoever from decision-making input by the Town Council. The Bill further declares that the district will be deemed compliant with all the standard statutory procedures regarding the formation of special districts, without any actual requirement that it comply at all. In fact, the legislation declares this district absolutely immune from accountability to any kind of public entity at the local or State level. The district will have vast, almost

unrestrained municipal powers with none of the public accountability standards that otherwise apply to municipal corporations. It will have the capacity to issue up to \$30,000,000 in special obligation bonds for which debt service will depend upon tax revenues derived from the ultimate property owners. Bond proceeds may be used to finance infrastructure both within and without the district but imposes an obligation on the district to pay for the maintenance of only those improvements located within its boundaries. One attempt to justify these powers is to point out the pre-existing and admitted need of the Town for enhanced sewer capacity. But to respond appropriately, and by democratic local legislative action, to needs that already exist is significantly different from creating new demand as a way to justify this proposed tax district as the means for financing it. In an attempt to further his image as public benefactor, Mr. Frey has also represented that he will enter into an interlocal agreement with the Town obligating him to make a \$10,000,000 "donation" to the preservation of conservation values in the Town. Although the legislation does authorize such an interlocal agreement, it does not mandate its terms.

How should the Town Council of New Milford vote on a piece of special legislation designed for the benefit of a single private developer?

Aware of some of the controversy that has been generated by Mr. Frey's proposal, the Joint Committee of Finance, Revenue and Bonding has taken the precautionary step of referring this legislation back to the selectmen of Redding and East Lyme and the town councils of New Milford and Bridgeport to consider whether they will request the adoption of this legislation as it affects their respective towns. This evaluation is limited to consideration of those provisions of Bill 1331 that create a special taxing district for the Town of New Milford. The Town Council has been requested to indicate a vote in favor of or opposed to the legislation no later than May 13, 2005.

I have been asked by the Weantinoge Heritage, Inc., land trust and other concerned residents of the Town of New Milford to examine this legislation based upon my experience and to evaluate it in terms of sound principles of land use and public finance conventions, financial planning, governance and public accountability. Accordingly I have divided my presentation into the following specific categories that I believe are the critical issues the Town Council should be fully aware of before voting on this Bill.

I. General Principles of Sound Public Finance and, in Particular, Their Application to the Creation and Function of Special Tax Districts

- There are commonly three situations in which the type of "creative" financing envisioned by this Bill, relying in effect on a public subsidy for a private project, has been used appropriately: It has been implemented frequently in western states with large unincorporated areas where the district residents were not impacted by the burden of double taxation (the municipality and the district). Mr. Frey has not demonstrated how he will market this obvious disadvantage or whether he will even include a disclosure in his prospectus. (Unlike some states, Connecticut law has no such disclosure requirement.)
- A second, relatively common use of special district financing is for the remediation of so-called "Brownfields," blighted former industrial properties that present an environmental risk and as to which the hazards of clean up liability under the State Transfer Act and Federal CERCLA requirements create a disincentive to investment or purchase. This is much like the example of inner city housing rehabilitation that relies on "gap" financing, grant monies or low-income housing tax credits to subsidize the fact that rehab costs will exceed property value. But again, there is a public benefit. What is the community benefit to be derived from granting a substantial subsidy to a private development that will inure to the profit of a single property owner and developer so that he can build upscale clustered housing in a rural area?
- A third use, more common in Connecticut, is the use of special districts for the limited purpose of bringing special services (such as fire protection or a library) to an already existing, developed area with an established tax base. This is far different than authorizing a developer to shift the risk of commercial finance from himself to the imposition of tax assessments against residents he hopes will come to a development that has not even been built. Again, the highly speculative nature of this, and its apparent lack of confidence in the strength of the market, is evidenced by the fact that Mr. Frey is so adamant about relying on a

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mechanism to secure the repayment of construction loans with the power to tax.

The proposed special district fits none of the usual criteria for:  
Development of unincorporated territory;  
Remediation of blighted (Brownfield) property; or  
Extension of special services to an existing tax base.

- How will Mr. Frey propose to maintain the project's proposed limitation to the 55+-age category? The Federal Fair Housing Act prohibits age discrimination except within precise regulatory standards and population proportions. Has he indicated a plan for complying with these requirements? If the designation is lost, has he anticipated for the burden to the community of families with school-age children?

This district cannot assure the age 55+ limitation for the life of the bonds.

- Section 4 of the Bill provides that any special district may contract with its host town for carrying out any of the purposes for which the district was created, but it provides no guidance whatsoever as to the terms of such an interlocal agreement. What assurances, other than promises to the Mayor, does the Town have that Mr. Frey will make a \$10,000,000 dollar-for-dollar contribution to the Town's preservation funds?

Has the Town Council seen Mr. Frey's proposed interlocal agreement?

- The plan allows for apparently unlimited development of infrastructure "improvements" both within and without the district, but imposes the cost of their maintenance on the district for only those improvements within its boundaries. Thus, without decision-making or veto power

by any agency of the Town or State, the district board has the power to impose potentially substantial expenses on the community at large.

Who pays to meet the demands of the infrastructure improvements outside the district?

- Since the legislation requires the district to maintain only those improvements it constructs within its boundaries, who does Mr. Frey propose will pay for the upkeep of improvements his district builds outside its boundaries?
- This legislation departs radically from the standards of existing enabling acts that allow the creation of Chapter 105 special districts only by local legislative action following a favorable vote of two-thirds of the voters present at a town meeting or voting in referendum. Why does Mr. Frey go to such lengths to avoid public scrutiny?
- Although § 9 (f)(3) of the Bill does provide that bonds or notes of the district shall not be considered a debt of the State or the Town, or a pledge of the faith and credit of either the State or Town, but shall be paid solely by the district, that statement is qualified by the phrase "unless otherwise authorized by law." Sec. 9 (m) confers upon bondholders all the powers of law, equity and the bond trust agreement to enforce their interests. Is bond counsel Phelan prepared to render her legal opinion that there will be no case in which bondholders may ever have recourse against the Town of New Milford for the default of the district? Even in the event that the Town is protected from the obligation to pay debt service, this does nothing to assure the Town protection from the collateral costs of the Project (road, sewer and other improvements along the corridor outside the district).

What happens in the event of a default?

- Mr. Frey and the Mayor have made statements on the record to the effect that it would be unwise to wait for the adoption of general enabling legislation that would subject districts of the type Mr. Frey is proposing to the same public scrutiny and vetting as other special districts already permissible under §§ 7-324 and following of the Statutes. However, they have given this Council no reason whatsoever

for the urgency of conferring this enormous benefit upon Mr. Frey and Mr. Dunham. What is the justification for a "super-special" district that can disregard the following safeguards otherwise applicable to merely "special" districts:

- A statutory special district must be approved by a two-thirds vote of the Town Council to override a negative vote at referendum.
- A statutory special district does not, as in this case, establish an autonomous government accountable only to a for-profit developer with the apparent propensity to disregard market realities.
- This autonomous board itself, not only without a vote of the Town of New Milford but even without a vote of its own constituents, can borrow and appropriate money for any purpose it deems necessary or convenient both within and without the district boundaries.

What is the justification for removal of virtually all public accountability for the actions of this district?

- In his testimony at the General Assembly, Mr. Frey defended this "super-special" district legislation by conceding that without it, "Financially, the projects are not viable. Without the special taxing district created in order to finance the tremendous amount of infrastructure up front that allows you to build a walkable community. ... The infrastructure for each of these projects is in excess of \$25 million. There's no way the projects are viable if a private developer has to come in." It hasn't apparently occurred to Mr. Frey that the reason conventional lenders may not invest in such a risky project is because it is economically unsound.
- If, as appears to be the case from Mr. Frey's own testimony regarding the inability of this project to be developed without public subsidy, the market does not support such density of development in a remote rural location, what is the basis of his confidence that the market will produce up to 508 residents willing to take on the burdens of double taxation, as well as his own development costs? Obviously the risk of market failure is shifted ultimately to the unit owners. In the event that sales of the units and the assessment of tax revenues are not sufficient

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for bond service following the initial deferred payment period, it is the unit owners that face the prospect of extraordinarily high tax assessments, defaults, tax liens and foreclosures. And they face this risk without having ever had the opportunity to vote on its cause. Would you want to live at Dunham Farms?

- In several states, Mr. Frey's reasoning has been incorporated into enabling legislation by limiting the creation of special districts to those cases where the developer is required to make a showing that some economic gain vital to the public interest will not be feasible "but for" the ability to use this kind of financing. Queries for the Council: Has this Town Council made a determination that development of the Dunham Farm Active Adult Development is a benefit vital to the public interest? Secondly, has Mr. Frey been put to the task of actually demonstrating, rather than merely stating, that the project cannot be funded and built without recourse to this extreme measure (i.e., with conventional construction financing)?

The project has not demonstrated that it is sensible from a marketing perspective.

- In those cases, in which special district issuers have defaulted on their bonds the reason has consistently been the fact that income to be derived from the development did not occur at the rates anticipated by the developer. In the event that units are not built and sold fast enough, the possible options are that the developer will have to bail the project out, the unit owners will be imposed with the disproportionate burden of carrying more than their fair share of the debt load, the Town will contribute to the project, or the bonds will go into default and the bondholders will take a receivership of the project. None of these are desirable prospects.
- Other considerations that ought, as sound practice, to be given consideration in the adoption of any bond enabling legislation for special districts include at least the following provisions, none of which are present in this Bill:
  - What are the projected construction and occupancy schedules (when is build-out expected to occur)?

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- What will be the ratio of the bond indebtedness to the value of the built-out project? (In this respect, the General Statutes at § 7-374(b) impose debt limits on municipalities issuing their bonds that are calculated as a ratio of the debt to annual revenues. The proposed Bill does not appear to impose any such common sense requirement on the district issuer to avoid becoming overextended in debt.)
- Is there a precise revenue projection for how the various costs of debt service and operations of the project will be paid?
- Locations where special taxing districts have been controversial due to the perception of abuses by overzealous developers include:
  - The State of Florida, where Chapter 190 allowed the implementation of special district funding of residential development and the sudden increases in the tax rates for homeowners, once deferred bond payment periods expired, were so exorbitant that the situation prompted the legislature to adopt mandatory disclosure laws regarding home ownership in Community Development Districts.
  - In Texas, a scandal erupted when it was discovered that housing special district boards were being filled with highly paid consultants hand-picked by the developer (a former owner of the Dallas Cowboys) and that assessments (also a feature available in Bill 1331, in addition to taxes) were being used to finance personal expenses.
  - Colorado experienced numerous defaults on special district housing bonds where build-out and move-in dates simply could not keep up the demands for debt service. Notwithstanding similar guarantees regarding the fact these were special obligation bonds not putting the municipality on the line, local governments have stepped up to the plate when faced with the options of a failed development or exploited taxpayers.
  - A promotional publication advocating special districts in Maryland points out that one distinct advantage of special districts is that the first bond issuer pays for the construction of improvements within the vicinity but outside its own district boundaries, which then attracts other developers and enhances economic development. New Milford should look more closely at whether it regards the

increased development that will be made possible by Dunham Farms as a benefit.

- In March of 2003, a joint project of the Center for Economic Policy Analysis, Heartland Institute, Jewish Council on Urban Affairs and the (Illinois) Statewide Housing Coalition concluded that special district financing disproportionately favors developers to the detriment of residents, violates common standards of justice and fairness and ought to be regarded as but a last resort when achieving a vital public interest really cannot be achieved in any other way.

**SUMMARY ON PUBLIC FINANCE ISSUES:**

Has Mr. Frey presented this Town Council with a single compelling public interest that is served by conferring virtually unfettered quasi-governmental authority upon a district board picked by him that has unprecedented powers to incur public debt, impose taxes on people who didn't vote for the improvements and defy the conventions of the market place?

II. Land Use Issues, to Include: Conflict with the State Plan of Conservation and Development; "Spot" or "Contract" Zoning; Violation of the Public Trust

- Mr. Frey claims he already has unanimous zoning approval for this project. Yet he acknowledges that he will be required to revisit the Commission for site plan review. How does he propose a challenge to such approval as "spot" or "contract" which has legally been defined as "the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners"?
- Under well-established Connecticut law, pursuant to § 8-2 of the General Statutes, zone changes are to be consistent with a "comprehensive plan" for the general welfare of the community. In the zoning context, this language does not refer to the plan of conservation and development but means a general, pervasive regulatory scheme

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that evolves out of the proceedings and decisions of the land use agencies.

Violates the "comprehensive plan."

- However, in consideration of changes to the zoning regulations, the Zoning Commission "shall consider the plan of conservation and development prepared [by the Planning Commission] under section 8-23." In changing zoning regulations or boundaries, the Zoning Commission is required by § 8-3a of the Statutes to request an opinion of the Planning Commission as to consistency with the "master plan of development" and to hold a public hearing. The Zoning Commission may vote in a way that contradicts a negative opinion of the Planning Commission only by a supermajority vote. This has the effect that the local plan of conservation and development is not binding on the Zoning Commission but is also more than "merely" advisory. Has the Town of New Milford written an opinion regarding consistency of the proposed development with the master plan of development?
- The master plan of development, prepared by the Planning Commission in accordance with § 8-23, is required to be a statement of policies, goals and standards for the physical and economic well being of the entire municipality. It is required to take into account the State POCD and to note any inconsistencies. Obviously, in the case at hand, the inconsistency between the State POCD and the proposed project is stark. Has the Planning Commission offered the Town Council any kind of report or opinion as to justification for such a dramatic inconsistency?

Violates the master plan of conservation and development for the Town.

- These principles make it clear that, although arguably only advisory so far as zoning is concerned, the persuasive authority that State and local POCDs are to have on the planning and zoning process are meant to be taken seriously.

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- In its review and denial of New Milford's application for an interim change to the local POCD, the Office of Policy and Management stated, "OPM recommends no change to the current classification for this large area that is predominantly shown as Rural Land. The magnitude of the proposed development for this area is inconsistent with the C&D Plan policies for Rural Land (see Appendix A). Consideration of the town's request to make this a Growth Area would entail a vast overhaul of the local road system to accommodate such intensive development in this area, and would likely induce additional development westward toward the Town of Sherman." The reference to Appendix A, Findings and Recommendations, states that the Town should "[v]igorously pursue sewer avoidance programs and limit development to those uses and densities that ensure indefinite functioning of on-lot or small community water supply and waste disposal systems, review zoning regulation and eliminate insufficient lot sizes."

The State's Office of Policy and Management is on record advising against this project as being in violation of the State Plan of Conservation and Development.

- Unlike other similar projects contemplated by the statutory changes at §§ 1(a) and 5 (a) (2) of RB 1331 to sponsor "remediation projects," Dunham Farm will not be constructed on Brownfields or land requiring reclamation. "Remediation project" is defined at § 32-23d of the General Statutes to mean any project (1) involving the development, redevelopment or productive reuse of real property within this state that (A) has been subject to a spill, as defined in the State's Water Pollution Control Act; (B) is a hazardous waste establishment for purposes of the State Transfer Act; (C) is a hazardous substance facility for purposes of the Federal CERCLA legislation; or (D) is eligible to be treated as polluted real property for purposes of the State's Urban Sites Remedial Action Program or as contaminated real property for purposes of DEP-approved Brownfield remediation projects. On the contrary, the proposed New Milford site comprises pristine rural land and is located in a portion of New Milford that will require extensive additions and improvements to the local road infrastructure to avoid traffic gridlock.

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- This legislation, addressing as it does only a mechanism for paying for the improvements necessitated by this project, makes no mention as to how Mr. Frey will address the potential harm to the Housatonic River and Candlewood Lake due to runoff from roadways in the development, disruption of local animal habitats or mitigation for wetlands disturbances - or the fact that the cost of adequately addressing such issues is another factor that is going to have an adverse impact on the marketability of the homes.

**SUMMARY OF LAND USE ISSUES:**

The planning and zone changes that will be necessitated by this project are not consistent with the comprehensive plan for growth in the Town of New Milford; the development is in blatant violation of the State's Plan Of Conservation and Development; and there is a palpable risk of environmental degradation.

III. Public Policy Issues: Its Anti-Democratic Bias; No Demonstration of Market Feasibility; Vague Standards for Terms and Conditions of Interlocal Agreement with Town

- This Bill, as stated in the form before substituted, launches a full-scale assault on the democratic process by conferring unilateral unrestrained power on the Mayor to appoint the district board, which is to consist of five persons, four of whom will (initially) be recommended by Mr. Frey himself until such time as the declarant condominium developer transfers ownership to the unit owners and control to the association.
- Section 9 (c)(1) of Mr. Frey's Bill expressly states that, "The board shall not be subject to the supervision of the town of New Milford or any board, department, commission or agency of the town of New Milford or of the state of Connecticut except to the extent and in the manner provided in this section." The only terms and conditions providing for such supervision establish the authority of the Mayor to appoint all five members of the district board, four of whom are to be recommended by the property owner.
- Even when control of the board is transferred to the district voters after conveyance of 90 % of the residential units in the district, voting is limited to persons who are liable to the district for taxes assessed on their real property of not less than \$1,000 on the most recent grand list. In any other context, America long ago abandoned property requirements for voting purposes.

This proposal directs the removal of all democratic oversight and control from the both the Town and even the residents of its own district.

- The letter from Curtis Read, Chairman of the Northwest Conservation District, in response to Carl Dunham's request for an opinion regarding the proposed "Candlelight Farms Active Adult Development," dated October 26, 2004, points out that, "The proposed density in a confined area depends on the availability of a public water supply and public sewer or possibly a package sewer treatment plant with community leaching fields. The solution for adequate water and public sewerage should be specified and approved prior to construction." The Bill makes no provision for this common sense requirement.
- Before establishing a sewer district, especially one with the power to construct sewers outside the district such as with this proposal, the statutes otherwise require a master plan for the sewer layout (and other anticipated improvements) to be prepared and presented to the Water Pollution Control Authority. This Bill exacerbates the existing shortfall in New Milford sewer capacity and there is nothing the Town can do to prevent it.
- Along with a well-designed sewerage facility master plan, standard procedures require an estimate of the proposed construction cost to be developed and used as a basis for setting the bonding limits of the district (along with other planned construction). This master plan enables the community, through its public agents, to see in advance where proposed sewer improvements will be located, line size and volume flow and potential for lateral connections to existing development and future development outside the district. None of those requirements are safeguarded by this legislation.
- The extended sewer line is clearly the linchpin for the proposed development, but once the line is laid from existing limits along the Route 7 corridor to Dunham Farm, and available to all other potential developers along the newly extended sewer corridor, it will promote additional development. This legislation should not be adopted.

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without a mandatory presentation by the developer/proponent of the district to the Town Council and Water Pollution Control Authority *in advance* of creation of the district.

The proposal has presented nothing for consideration by the Water Pollution Control Authority.

- The authority of the district board to construct improvements outside the district is unconscionably vague and ill defined, and therefore subject to abuse. Conferring upon this board the power to determine what improvements it deems "necessary or convenient in [its unfettered] judgment" *outside* the district in order to provide for development *inside* the district is an abdication of the governmental duties of the Town. Under the language of the Bill, Mr. Frey's district can "acquire existing improvements, including utilities, open space or infrastructure outside the district but benefiting the district or the town of New Milford." By what arrogance of authority does Mr. Frey, or the handpicked members of this board, presume to be the best judge of what benefits the Town of New Milford?

What limits are there on the district's power to commit the Town to support services created outside the district boundaries?

- This district board created by this legislation would function, in effect, as the governing body for an independent municipal corporation with broad public powers but none of the public accountability standards required of cities and towns:
  - There is no requirement that the board must take and make available minutes of its meetings.
  - Although the Board's records of expenses and receipts "shall be open to inspection by a duly appointed officer or duly appointed agent or the State of Connecticut or the Town of New Milford," there is no requirement that any such officer in fact ever be appointed or ever conduct such an inspection.

- The Bill does state that, "The district shall be subject to an audit of its accounts in the manner provided by the general statutes." However, this leaves utterly vague and undefined what statutory standards apply to an unprecedented legislative creation that is arguably exempt from requirements applicable to private or public corporations. There is no mention of a periodic audit requirement
- The Bill is silent regarding board compensation. The Bill allows the district to employ assistants, agents, employees and persons, including experts and consultants necessary and convenient in the board's judgment and to define their duties and fix their compensation, all without standards of accountability.
- The Bill is silent regarding board composition and may consist entirely of non-residents and persons who regard themselves as loyal or beholden to Mr. Frey.
- Control of the board by the landowner continues for an indefinite period of time without setting any schedule for relinquishing ownership to the condominium unit owners and control to its association. This inequity is compounded by the fact that the owner's choices for board membership are subject to no control other than appointment by the mayor, not by this Council.
- Mr. Frey's own testimony before the General Assembly confirmed his absolute ignorance of the standard requirements of the Common Interest Ownership Act and its proven procedures for vesting owners with eventual control. During his testimony before the Finance Committee, Mr. Frey was expressly informed, apparently for the first time, by Representative Altobello that Connecticut even has a CIOA. When questioned whether this development would be exempt from CIOA requirements, Mr. Frey relied on the limitation of his attorney's expertise to that of a bond counsel, "not a condominium specialist." Rep. Belden recommended that "somebody might want to review ... Connecticut's condominium law ... to determine whether there are any conflicts between special tax district legislation and the condominium law...". To date, Mr. Frey has produced no new information regarding this question. [By way of example, nothing in this Bill addresses whether the district board is expected to function in the place of or in addition to the condominium owners' association. If the board operates in both

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functions to the exclusion of the association, then how will resident voices be heard at all? If the board is only supplemental to the association, to what extent does their authority overlap? How would policy disputes between the board and the association be resolved?]

Mr. Frey's testimony before the General Assembly suggests he has no idea how his district board would interrelate with the condominium owner's association under the State's Common Interest Ownership Act.

- Of course, questions about compliance with the CIOA or auditing requirements elsewhere in the statutes or other limitations on the capacity of a quasi-governmental entity to pledge tax revenues for the payment of bonds may all be moot in any case because of the sweeping language of § 9 (r)(1) of the Bill that declares, in the event of a conflict between any provision of this law and any statute, special act, administration or regulation of the State, or any resolution or ordinance of the Town of New Milford, the provisions of this Bill control. And in the event that the Town Council should ever feel bold enough to assert its otherwise lawful power and duty to control the issuance of public debt by an entity within its jurisdiction, the Bill states that " no resolution or ordinance of the town of New Milford requiring ratification by the mayor and town council or the voters of the town of New Milford ... shall apply to the issuance of bonds or notes of the district ...". This is a very special district indeed.

The "home rule" powers given this district board, in effect, give it independent quasi-governmental authority to function outside the laws of both the State and the Town. Under provisions regarding special legislation and home rule, this is of questionable constitutionality under the State Constitution.

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- The grant of powers conferred upon an unknown special district board by this legislation is so flexible and capricious that it gives quasi-governmental officials and a for-profit developer virtually arbitrary authority over residents of the district which persons are also residents of the Town of New Milford. This excludes the voices, interests and ideas of the largest part of the community from the planning process and perverts it into a narrow mechanism for personal gain. If the long-term result should be that unit owners are saddled with exorbitant dual taxes and assessments, or forced to leave in order to avoid defaults and foreclosures, this arrangement contradicts any conceivable notion of fairness or justice.

**SUMMARY OF PUBLIC POLICY ISSUES:**

The legislation proposed is unjust, unfair and undemocratic. It provides for no public oversight of activities that may have substantial impact on the lives of residents of the Town of New Milford.

CONCLUSION:

Although my charge in responding to the inquiry of my clients was to formulate and present a reasoned, objective analysis of the Bill as it existed prior to the recent substitution (and as it may reappear following the proposed study), it should be apparent that I consider the Bill to have many very serious defects.

I would therefore recommend that the Town Council give serious consideration to the following questions during the course of the proposed study if the Substitute Bill is adopted. (For a third recommendation, it may also be advisable for the Town Council to seek an opinion from its municipal bond counsel.)

Is this something that the Town of New Milford really wants to do: Grant a handsome governmental subsidy to a private developer who has admitted on the record that his project cannot be supported by relying on market forces, so that he can extend sewerage and other infrastructure improvements, both within and without his special district, into the domain of an area designated by the State Plan as Rural and determined by the Office of Policy and Management to be unsuited to this proposed use, thereby imposing on the Town the potential burden of maintaining the services that he creates, with no promises or guarantees regarding debt service or the limitation of the project to its target age group?

If the answer is yes, that this is perceived somehow as an asset and a benefit to the Town as a whole and not merely to Messrs. Frey and Dunham, then why is the entire process shrouded in secrecy, backroom dealings and anti-democratic strategies? Why has the Bill written by bond counsel Phelan studiously avoided the safeguards otherwise placed in § 7-325 of the Statutes requiring adoption of the district by a two-thirds vote of the Town meeting or at referendum? Why does the legislation expressly state that this board operates without the slightest accountability to any local or State officer or agency? Why did developer Frey seem to think it necessary to do an end-run around this Council by a direct appeal to the legislature? He has since apologized for this act of arrogance by characterizing it as putting the cart before the horse. But the fact is that his intention was to push the cart through the legislature and leave the horse in the stall. It has never been Mr. Frey's intention to come to this Council and subject himself to public scrutiny. He has only been forced into this position by Senator Roraback's wise decision to refer the Bill back to the affected community for its consideration.

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Mr. Frey has, in fact, by his letter to Peter Bass of April 21, deceived this Council by asserting that the "legislation, by itself, creates nothing but an opportunity that cannot be employed unless you, New Milford's Town Council, approve creation of the special district in the future." I challenge Mr. Frey or Attorney Phelan to refer this Council to a single provision in RSB 1331 that confers any powers of any sort whatsoever upon this Council over the creation or governance of the district board. The fact is that the Bill removes the Town Council from the process altogether, empowers the Mayor to appoint associates of the developer to the district board, authorizes the board to create and file its first report and plan with the town clerk, and then declares in § 9 (a) that the Dunham Farm Infrastructure Improvement District, a body politic and corporate, shall be "declared to exist" and shall be "deemed" to be created in accordance with all the normal statutory procedures and safeguards that in this case are utterly ignored.

Mayor Murphy has described the topic for this special meeting of the Town Council as dealing only with the question, "Does the Town want the right to have local approval over special taxing districts?" With all due respect, that mischaracterizes the question because this Bill does not give "the Town" any right to have local approval over the proposed special taxing district. It merely authorizes her to appoint the members of the board who then have the power to declare the district into existence by fiat. The Mayor also noted that the interlocal municipal agreement "is where you build in local protection." I remind this Council that no language for this theoretical agreement is mandated by the legislation nor has it been offered for review by this Council. According to the Mayor, this agreement will limit the district to building only those sidewalks, sewers, water mains and road infrastructure needed for the project, but keep in mind that this district board is given unlimited discretion by the Bill to determine the extent to which those improvements are needed *outside* the district boundaries. Obviously, once they are constructed outside the district boundaries, they will increase the likelihood of additional development taking advantage of them. Finally, Mayor Murphy is reported to have stated, "Here's our opportunity to be in charge." Again, with all due respect, I challenge Mr. Frey, Mayor Murphy or Attorney Phelan to point out a single provision of this legislation giving the Town Council to be in charge of any aspect of this board's activities.

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This is a bad piece of legislation. It makes poor economic sense; it presents no accountability to the same public that it expects to provide a \$30,000,000 subsidy; and it violates the public trust in the environmental resources protected by the planning processes of the State and the Town.

Thank you.

IN ORDER TO PRESERVE THE INTEGRITY OF THE GOVERNING PROCESS FOR THE TOWN OF NEW MILFORD, OUT OF REGARD FOR SENSIBLE SAFEGUARDS TO THE BALANCE OF INTERESTS BETWEEN CONSERVATION AND DEVELOPMENT AND FOR THE PROTECTION OF THE TOWN'S TAXPAYERS (WHETHER THOSE WITHIN OR WITHOUT THE PROPOSED DISTRICT), I STRONGLY URGE THE TOWN COUNCIL TO SEND A "NO" VOTE TO THE LEGISLATURE ON SUBSTITUTE RAISED BILL NO. 1331 AND ANY VERSIONS THEREOF.